

WORKERS' COMPENSATION COMMISSION BUDGET BRIEFING
Thursday, February 12, 2004

SUBCOMMITTEE ON PUBLIC SAFETY AND ADMINISTRATION
Chairperson: Joan Cadden

The Workers' Compensation Commission (WCC) would like to express its appreciation for the efforts of Mr. Martin Levine. Although the WCC concurs with almost all of the information presented in his analysis, the following comments and clarifications are provided relative to two specific issues.

Proposed Committee Narrative: Impact of Harris v. Board of Education of Howard County
Impact of Harris v. Board of Education of Howard County: In light of the Maryland Court of Appeals decision in Harris v. Board of Education of Howard County, the committees are concerned that the potential for increased workers' compensation costs be balanced with the rights of injured workers. The committees request that the Workers' Compensation Commission prepare a report detailing the caseload impact of the Harris decision. This report should include the number of Harris-related claims, as well as the awards generated from these claims. This report should also track the number of commission orders appealed to the courts on Harris grounds. This report should be submitted to the committees on August 1, 2004.

WCC Response: The WCC has initiated action and plans to gather appropriate statistical data of workplace incidents from the insurance industry in order to provide an analysis of the potential impact on compensable injuries under the *Harris* decision. Court appeals of Commission orders do not state the reason for the appeal. The case is almost exclusively argued, de novo, before the appeal court. In addition, as the WCC is applying the statute as interpreted by the Court of Appeals, there would be no basis for any appeal on the grounds of Harris. The WCC will provide a report on August 1, 2004 updating the committees on the analysis of the data collected from the insurance industry relating to the impact on compensable injuries as a result of the *Harris* decision.

Proposed Committee Narrative: Potential consolidation of self-insured and group self-insured companies: *In light of the Bethlehem Steel bankruptcy and the associated costs to the State, it is the intent of the committees that an analysis be performed regarding the potential consolidation of the regulation of self-insured, as well as group self-insured companies. The committees request that the Workers' Compensation Commission and the Maryland Insurance Administration jointly prepare a report detailing a recommendation for or against the consolidation of the self-insured and group self-insured entities. This report should explain why the operational structure and expertise of either WCC or MIA make that agency better suited to one or both of the categories. The report should be submitted to the committees by December 1, 2004.*

WCC Response: Bethlehem Steel (Beth Steel) has been a significant part of the Maryland economy since the early 1900's. They were one of the charter members of the Maryland workers' compensation self-insurance program as far back as 1916. In 1985, when Beth Steel began to experience a major financial crisis, the WCC undertook efforts to terminate Beth Steel's self-insurance status prior to bankruptcy. Actions by the prior administration as well as a court-ordered injunction prevented termination of Beth Steel from the program. The security amount was negotiated and accepted by the Court. As a result of a downturn in the economy the WCC had already begun a more stringent examination and oversight of self-insured entities. In fact, in the early part of 2001, approximately 10 months prior to the bankruptcy filing of Bethlehem Steel, the WCC became aware of the need for a more thorough examination of self-insured companies.

The WCC currently regulates approximately 15 self-insured governmental entities, one self-insured governmental group and over 90 individual self-insured entities. The Maryland Insurance Administration regulates the seven private self-insured groups. The WCC has reviewed the financial condition, claims experience and level of required security for all self-insured employers. In many cases, the required security was increased to a much higher level and several entities were requested to voluntarily leave the program or face termination. In addition, the WCC now requires an independent actuarial review to be performed tri-annually and has developed software that allows the WCC to perform an analysis at any time it deems appropriate. The regulations recently adopted by the WCC that codify its practices are comprehensive and include areas relating to application procedures, security and reporting requirements as well as conditions that could result in termination from the program. The WCC has contacted the Maryland Insurance Administration. Both agencies will meet and analyze the possibilities of consolidating the regulation and oversight of the self-insured entities and group self-insureds. The agencies will report to the committees as requested by December 1, 2004.

I would also like to take this opportunity to personally thank the members and staff of the Budget Committees for their interest and support of the Workers' Compensation Commission during the last few years. I would welcome the opportunity to respond to any questions or address any other concerns that the Committee may have at this time.

WORKERS' COMPENSATION COMMISSION BUDGET BRIEFING
Monday, February 16, 2004

SUBCOMMITTEE ON PUBLIC SAFETY, TRANSPORTATION, AND ENVIRONMENT
Chairman: James DeGrange

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